

46 Am. Jur. 2d Judges § 68

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Judges

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VIII. Liabilities

A. Civil Liability

2. Liability for Particular Types of Conduct

a. In General; Conduct Within Scope of Rule of Absolute Judicial Immunity

§ 68. Determination whether act is "judicial" in nature for purposes of judicial immunity

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  35, 36

The role and duties of a judge cannot be neatly compartmentalized, and not all acts by one bearing the title "judge" are judicial.¹ An act by a judicial official need not be formal for it to constitute a judicial act, as would entitle a judicial official to judicial immunity.² Difficulties have arisen in attempting to draw the line between truly judicial acts for which immunity is appropriate and acts that simply happen to have been done by judges.³

The Supreme Court has thus developed a functional approach to immunity law, justifying and defining immunity by the functions it protects and serves, rather than by the person to whom it attaches,⁴ focusing on the judicial character of the act rather than the judicial character of the officer⁵ and seeking to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions.⁶ When a functional analysis of the responsibilities at issue reveals that they are judicial in nature, the actor is entitled to absolute immunity from damages no matter how erroneous the act or injurious the consequences.⁷ The functional approach produces distinctions between adjudicatory acts, which are indisputably entitled to absolute immunity, and administrative, legislative, or executive functions.⁸ If a defendant government official's functions are of a judicial nature, the court then must weigh the costs and benefits of denying or affording absolute immunity to the official.⁹

Judges may be exposed to liability for nonjudicial acts¹⁰ and acts performed in the clear absence of all jurisdiction.¹¹ Moreover, judicial immunity does not extend to certain causes of action seeking injunctive or declaratory relief¹² or to an award of reasonable attorney's fees in a civil rights action under federal law,¹³ even though damages are barred or limited by it.¹⁴

CUMULATIVE SUPPLEMENT

Cases:

County judge's alleged actions in plaintiff's foreclosure proceedings, including failing to acknowledge plaintiff's legal interest and standing, which had already been established by another judge, enjoining plaintiff from further filing pleadings in foreclosure process, which deprived him of due process of law for appeal, and acting outside judge's delegated jurisdiction in overruling other judge's order, were taken in judge's judicial role, and thus judge was protected by judicial immunity from plaintiff's lawsuit seeking money damages for such alleged transgressions. [U.S. Const. Amend. 14](#). [Graves v. Callahan](#), 253 F. Supp. 3d 330 (D.D.C. 2017).

[END OF SUPPLEMENT]

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Footnotes

- 1 [Mylett v. Mullican](#), 992 F.2d 1347 (5th Cir. 1993).
- 2 [Huminski v. Corsones](#), 396 F.3d 53 (2d Cir. 2005).
- 3 [Forrester v. White](#), 484 U.S. 219, 108 S. Ct. 538, 98 L. Ed. 2d 555 (1988).
- 4 [Mireles v. Waco](#), 502 U.S. 9, 112 S. Ct. 286, 116 L. Ed. 2d 9 (1991); [Forrester v. White](#), 484 U.S. 219, 108 S. Ct. 538, 98 L. Ed. 2d 555 (1988); [Brunson v. Murray](#), 843 F.3d 698 (7th Cir. 2016).
- 5 [Antoine v. Byers & Anderson, Inc.](#), 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993); [Mireles v. Waco](#), 502 U.S. 9, 112 S. Ct. 286, 116 L. Ed. 2d 9 (1991).
- 6 [Mireles v. Waco](#), 502 U.S. 9, 112 S. Ct. 286, 116 L. Ed. 2d 9 (1991); [Forrester v. White](#), 484 U.S. 219, 108 S. Ct. 538, 98 L. Ed. 2d 555 (1988).
- 7 [Brunson v. Murray](#), 843 F.3d 698 (7th Cir. 2016).
- 8 [Lemley v. Bowers](#), 813 F. Supp. 814 (N.D. Ga. 1992).
- 9 [O'Neal v. Mississippi Bd. of Nursing](#), 113 F.3d 62 (5th Cir. 1997).
- 10 § 70.
- 11 § 74.
- 12 § 65.
- 13 42 U.S.C.A. § 1983.
- 14 [Pulliam v. Allen](#), 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984).
As to the general rule of nonliability for damages in civil rights cases, see § 61.

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